

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DANTE D. MAJOR,

Petitioner,

-v-

9:18-CV-418

JAMIE LAMANNA,

Respondent.

APPEARANCES:

OF COUNSEL:

DANTE D. MAJOR
Petitioner, Pro Se
13-B-0181
Green Haven Correctional Facility
P.O. Box 4000
Stormville, NY 12582

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MARGARET A. CIEPRISZ, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On April 5, 2018, *pro se* petitioner Dante Major (“petitioner”) filed a petition for a writ of habeas corpus. Dkt. No. 1. After addressing some

procedural matters, Dkt. Nos. 7, 12, petitioner ultimately filed a second amended petition, Dkt. No. 35. Respondent opposed. Dkt. Nos. 62–64.

On September 3, 2021, U.S. Magistrate Judge Thérèse Wiley Dancks advised by Report & Recommendation (“R&R”) that the petition be denied and dismissed. Dkt. No. 90. Because the fourteen-day period in which to lodge objections to this R&R expired without the filing of objections from either party, the Court adopted the R&R in full on September 17, 2021, Dkt. No. 91, and directed the Clerk to enter a judgment dismissing the petition, Dkt. No. 92.

On September 22, 2021, petitioner filed a letter requesting an extension of time in which to lodge objections to the R&R. Dkt. No. 93. In his filing, petitioner indicated that he had only belatedly received a copy of the R&R and that, due to ongoing COVID restrictions, his access to the law library was severely limited. *Id.* Accordingly, petitioner sought a 120-day extension of time to object. *Id.*

On October 4, 2021, this Court denied petitioner’s letter request as moot because the judgment had already been issued. Dkt. No. 94. However, in light of his *pro se* status, the Court liberally construed his letter as a motion to vacate the Order and Judgment and to reopen the objection period for an additional 120 days. *Id.* So construed, the Court directed respondent to file a response to petitioner’s request. *Id.*

On November 2, 2021, respondent indicated that he does not oppose vacatur under these circumstances. Dkt. No. 97. However, respondent sought to shorten the extension from 120 days to just 60 days. *Id.* After considering the parties' filings, the Court granted petitioner's request for vacatur, directed the Clerk to reopen the action, and gave petitioner forty-five days in which to file objections to the September 3 R&R. Dkt. No. 98.

On January 20, 2022, petitioner filed objections, Dkt. No. 102, which have now been fully briefed, Dkt. No. 104. Upon *de novo* review of the portions to which petitioner has objected, the R&R will be accepted and adopted in all respects. *See* 28 U.S.C. § 636(b)(1)(C).

Therefore, it is

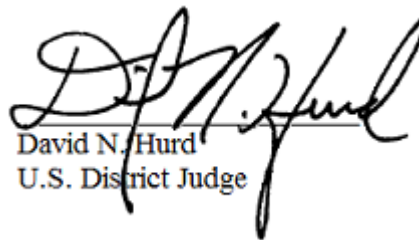
ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Petitioner's petition for a writ of habeas corpus (Dkt. No. 35) is DENIED and DISMISSED; and
3. No certificate of appealability shall be issued.

The Clerk of the Court is directed to terminate the pending motions and close the file.

IT IS SO ORDERED.

Dated: February 10, 2022
Utica, New York.



David N. Hurd
U.S. District Judge